

AMENDED IN SENATE JULY 2, 2003
AMENDED IN ASSEMBLY MAY 5, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 638

Introduced by Assembly Member Longville

February 19, 2003

An act to add Section ~~13353.42~~ 14602.8 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 638, as amended, Longville. ~~Drivers license: restoration~~
Vehicles: impoundment.

Existing law provides that a peace officer or, in certain other cases, a magistrate may cause the removal and seizure of a vehicle, under certain circumstances, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days.

This bill would authorize a peace officer to immediately cause the removal and seizure of a vehicle from a person who meets certain circumstances relating to driving a motor vehicle while under the influence of alcohol or drugs, or both, and who has been previously convicted of driving under the influence within the preceding 7 years. The bill would provide for a 15-day impoundment of that vehicle, subject to a hearing and certain exceptions.

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of the impoundment period, including a requirement that a legal owner who has obtained possession of the impounded vehicle not relinquish the vehicle to the registered owner

until after the termination of the impoundment period and until after the registered owner has presented a valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement and certain other requirements and restrictions imposed by the bill would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law prohibits the restoration of the privilege to operate a motor vehicle following a suspension or revocation of that privilege because of driving under the influence offenses until all applicable fees have been paid and the person provides proof of financial responsibility.~~

~~This bill would additionally prohibit the restoration of the privilege to operate a motor vehicle by a person whose privilege is suspended based on multiple driving under the influence offenses occurring within 7 years unless that person operates for at least one year on a restricted driver's license prohibiting that person from operating a motor vehicle unless that vehicle is equipped with a functioning and certified ignition interlock device.~~

~~This bill would provide that its provisions become operative on January 1, 2005.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 13353.42 is added to the Vehicle Code,~~
- 2 ~~to read:~~
- 3 ~~13353.42. (a) Notwithstanding any other provision of law,~~
- 4 ~~the privilege to operate a motor vehicle may not be restored~~
- 5 ~~following the suspension or revocation of that privilege as to a~~
- 6 ~~person described in paragraph (1) of subdivision (f) of Section~~
- 7 ~~23575 unless that person operates for at least one year on a~~
- 8 ~~restricted driver's license pursuant to Section 13352 prohibiting~~
- 9 ~~that person from operating a motor vehicle unless that vehicle is~~

1 ~~equipped with a functioning ignition interlock device, certified~~
2 ~~pursuant to Section 13386.~~

3 ~~(b) This section shall become operative on January 1, 2005.~~

4 *SECTION 1. Section 14602.8 is added to the Vehicle Code, to*
5 *read:*

6 *14602.8. (a) (1) Whenever a peace officer determines that*
7 *a person has been convicted of a violation of Section 23140,*
8 *23152, or 23153 and the violation occurred within the preceding*
9 *seven years, and that one or more of the following circumstances*
10 *applies to that person, the officer may immediately cause the*
11 *removal and seizure of the vehicle that the person was driving,*
12 *under any of the following circumstances:*

13 *(A) The person was driving a vehicle with 0.10 percent or more,*
14 *by weight, of alcohol in his or her blood.*

15 *(B) The person is under 21 years of age, and was driving a*
16 *vehicle with 0.01 percent or more, by weight, of alcohol in his or*
17 *her blood.*

18 *(C) The person who was driving a vehicle refused to submit to*
19 *or complete a chemical test requested by the peace officer.*

20 *(2) A vehicle impounded pursuant to paragraph (1) shall be*
21 *impounded for 15 days.*

22 *(3) The impounding agency, within two working days of*
23 *impoundment, shall send a notice by certified mail, return receipt*
24 *requested, to the legal owner of the vehicle, at the address obtained*
25 *from the department, informing the owner that the vehicle has been*
26 *impounded. Failure to notify the legal owner within two working*
27 *days shall prohibit the impounding agency from charging for more*
28 *than 10 days' impoundment when the legal owner redeems the*
29 *impounded vehicle. The impounding agency shall maintain a*
30 *published telephone number that provides information 24 hours a*
31 *day regarding the impoundment of vehicles and the rights of a*
32 *registered owner to request a hearing.*

33 *(b) The registered and legal owner of a vehicle that is removed*
34 *and seized under subdivision (a) or their agents shall be provided*
35 *the opportunity for a storage hearing to determine the validity of,*
36 *or consider any mitigating circumstances attendant to, the*
37 *storage, in accordance with Section 22852.*

38 *(c) Any period in which a vehicle is subjected to storage under*
39 *this section shall be included as part of the period of impoundment*
40 *ordered by the court under Section 23594.*

1 (d) (1) *An impounding agency shall release a vehicle to the*
2 *registered owner or his or her agent prior to the end of 15 days'*
3 *impoundment under any of the following circumstances:*

4 (A) *When the vehicle is a stolen vehicle.*

5 (B) *When the vehicle is subject to bailment and is driven by an*
6 *unlicensed employee of a business establishment, including a*
7 *parking service or repair garage.*

8 (2) *A vehicle may not be released pursuant to this subdivision*
9 *without presentation of the registered owner's or agent's currently*
10 *valid driver's license to operate the vehicle and proof of current*
11 *vehicle registration, or upon order of a court.*

12 (e) *The registered owner or his or her agent is responsible for*
13 *all towing and storage charges related to the impoundment, and*
14 *any administrative charges authorized under Section 22850.5.*

15 (f) *A vehicle removed and seized under subdivision (a) shall be*
16 *released to the legal owner of the vehicle or the legal owner's agent*
17 *prior to the end of 15 days' impoundment if all of the following*
18 *conditions are met:*

19 (1) *The legal owner is a motor vehicle dealer, bank, credit*
20 *union, acceptance corporation, or other licensed financial*
21 *institution legally operating in this state or is another person, not*
22 *the registered owner, holding a security interest in the vehicle.*

23 (2) *The legal owner or the legal owner's agent pays all towing*
24 *and storage fees related to the seizure of the vehicle. A lien sale*
25 *processing fee may not be charged to the legal owner who redeems*
26 *the vehicle prior to the 10th day of impoundment. The impounding*
27 *authority or any person having possession of the vehicle may not*
28 *collect from the legal owner of the type specified in paragraph (1),*
29 *or the legal owner's agent any administrative charges imposed*
30 *pursuant to Section 22850.5 unless the legal owner voluntarily*
31 *requested a poststorage hearing.*

32 (3) *The legal owner or the legal owner's agent presents either*
33 *lawful foreclosure documents or an affidavit of repossession for*
34 *the vehicle, and a security agreement or title showing proof of legal*
35 *ownership for the vehicle. All presented documents may be*
36 *originals, photocopies, or facsimile copies, or may be transmitted*
37 *electronically. The impounding agency may not require a*
38 *document to be notarized. The impounding agency may require the*
39 *agent of the legal owner to produce a photocopy or facsimile copy*
40 *of its repossession agency license or registration issued pursuant*

1 to Chapter 11 (commencing with Section 7500) of Division 3 of the
2 Business and Professions Code, or to demonstrate, to the
3 satisfaction of the impounding agency, that the agent is exempt
4 from licensure pursuant to Section 7500.2 or 7500.3 of the
5 Business and Professions Code.

6 Administrative costs authorized under subdivision (a) of Section
7 22850.5 may not be charged to the legal owner of the type specified
8 in paragraph (1), who redeems the vehicle unless the legal owner
9 voluntarily requests a poststorage hearing. A city, county, city or
10 county, or state agency may not require a legal owner or a legal
11 owner's agent to request a poststorage hearing as a requirement
12 for release of the vehicle to the legal owner or the legal owner's
13 agent. The impounding agency may not require any documents
14 other than those specified in this paragraph. The impounding
15 agency may not require any documents to be notarized.

16 As used in this paragraph, "foreclosure documents" means an
17 "assignment" as that term is defined in subdivision (o) of Section
18 7500.1 of the Business and Professions Code.

19 (g) (1) A legal owner or the legal owner's agent that obtains
20 release of the vehicle pursuant to subdivision (f) may not release
21 the vehicle to the registered owner of the vehicle or any agents of
22 the registered owner, unless the registered owner is a rental car
23 agency, until after the termination of the 15-day impoundment
24 period.

25 (2) The legal owner or the legal owner's agent may not
26 relinquish the vehicle to the registered owner until the registered
27 owner or that owner's agent presents his or her valid driver's
28 license or valid temporary driver's license to the legal owner or the
29 legal owner's agent. The legal owner or the legal owner's agent
30 shall make every reasonable effort to ensure that the license
31 presented is valid.

32 (3) Prior to relinquishing the vehicle, the legal owner may
33 require the registered owner to pay all towing and storage charges
34 related to the impoundment and any administrative charges
35 authorized under Section 22850.5 that were incurred by the legal
36 owner in connection with obtaining custody of the vehicle.

37 (h) (1) A vehicle removed and seized under subdivision (a)
38 shall be released to a rental car agency prior to the end of 15 days'
39 impoundment if the agency is either the legal owner or registered

1 owner of the vehicle and the agency pays all towing and storage
2 fees related to the seizure of the vehicle.

3 (2) The owner of a rental vehicle that was seized under this
4 section may continue to rent the vehicle upon recovery of the
5 vehicle. However, the rental car agency may not rent another
6 vehicle to the driver of the vehicle that was seized until 15 days
7 after the date that the vehicle was seized.

8 (3) The rental car agency may require the person to whom the
9 vehicle was rented to pay all towing and storage charges related
10 to the impoundment and any administrative charges authorized
11 under Section 22850.5 that were incurred by the rental car agency
12 in connection with obtaining custody of the vehicle.

13 (i) Notwithstanding any other provision of this section, the
14 registered owner, and not the legal owner, shall remain responsible
15 for any towing and storage charges related to the impoundment,
16 any administrative charges authorized under Section 22850.5, and
17 any parking fines, penalties, and administrative fees incurred by
18 the registered owner.

19 (j) The impounding agency is not liable to the registered owner
20 for the improper release of the vehicle to the legal owner or the
21 legal owner's agent provided the release complies with this
22 section.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

